

Heber Creeper May Be Forced To Repay Grant

By VICKI BARKER
Herald Staff Writer

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The federal government will take action soon to see that a development grant of more than \$800,000 given to the Heber Creeper scenic railroad is reimbursed, said Jack Oakey, executive director at the regional office of the U.S. Economic Development Administration.

On the telephone from his Denver office this morning, Oakey said EDA legal counsel is reviewing the October ruling in Utah's Fourth District Court that returned ownership of the railroad property to Lowe and June Ashton.

Ashtons had transferred the property in 1979 to the Timpanogos Preservation Society, handing over a warranty deed on the land for \$10, according to one document on file with the Wasatch County Recorder's Office. A second copy of the warranty deed has no language on payment to be made.

Disputes developed between Ashtons and TPS, leading to a settlement agreement in May 1982 in which the preservation society agreed to pay Ashtons \$122,500 for the property.

Later that year, Ashtons filed a lawsuit against TPS and Heber Creeper manager Monte Bona, claiming breach of contract and accusing the defendants of falsifying the warranty deed and fraud in the settlement agreement.

On Oct. 19, Judge Sorenson rescinded the 1979 warranty deed sale and said the settlement agreement was unenforceable.

In the hearing, Ashtons' attorney Calvin L. Rampton assured Judge Allen B. Sorenson that obligations to the EDA would be removed if the court ruled the property transaction invalid.

"No. Not true," Oakey said. "The ruling was wrong."

"I've heard of other instances

where non-profit organizations lost title to property that was being developed with federal money and the private interests did pick it up and had to pay for the money," Oakey said.

He said if Sorenson's rescission ruling holds in appeals court, Ashtons will have to repay "every dollar" of the federal grant.

Oakey has some doubts about whether Sorenson was right in rescinding the contract, especially if the ruling was based on lack of payment. The EDA official maintains that in the meeting of Bona and Ashton with the EDA when TPS applied for the grant, Ashton said he was giving the land to TPS.

"It was our understanding it was a donation," Oakey said. "Our former legal counsel took notes on that meeting, and I remember he (Ashton) represented it as there was no question on the land. In preparing (grant) documentation, our lawyer wouldn't give title opinion (assurance of title ownership) if there was that question."

The EDA required title ownership by the non-profit society in order to grant monies for historical development of the Heber Creeper.

Oakey expects EDA attorney Lynn Watwood will be prepared to take action on the issue in January.

Oakey said he came on board at the EDA after the Heber Creeper project under TPS was underway.

"I thought it had a lot of charisma, a lot of potential, and it still does and I get a little distressed at the way things have been handled," he said. "I guess it'll get down to the nitty gritty pretty soon. This court action is going to bring it to a head."

"They want it in Uncle Sam's court and we'll do that. There'll be federal action on it," he said.

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